

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

CONSOLIDATED COMPANIES, INC.

CIVIL ACTION NO. 98-1804 L-O

VERSUS

JUDGE S. MAURICE HICKS, JR

UNION PACIFIC RAILROAD COMPANY,
INDIVIDUALLY AND IN ITS CAPACITY
AS SUCCESSOR IN INTEREST TO
THE SOUTHERN PACIFIC
TRANSPORTATION COMPANY AND
SOUTHERN PACIFIC COMPANY

MEMORANDUM RULING

Before the Court is a Motion for Summary Judgment filed by Defendant Union Pacific Railroad Company. [Doc. No. 106]. The motion seeks to have all of the claims made by Plaintiff Consolidated Companies, Inc. dismissed as a matter of law. Union Pacific previously filed a Motion for Partial Summary Judgment before Judge Doherty [Doc. No. 44] which was denied since the Court found that genuine issues of fact remained.

A trial was held before this Court on the limited issue of whether contiguous parcels of property could be considered as a “facility” for purposes of evaluating the plaintiff’s claims under the Resource Conservation Recovery Act and/or the Louisiana Environmental Quality Act. After that trial was concluded but before this Court issued its ruling, Union Pacific re-filed a Motion for Summary Judgment on the merits.

Since Union Pacific’s motion was filed, this Court issued its Order defining the relevant “facility” as the entire former Southern Pacific railroad yard (as opposed to merely the plaintiff’s

property). Since that ruling may have widespread ramifications on the scope of discovery in this matter, and since the trial on the "facility" issue was limited to that sole issue, the Court finds that it does not currently have sufficient factual information to rule on Union Pacific's motion (which addresses the merits) at this time. Accordingly, Union Pacific's motion [Doc. No. 106] is **DENIED**. Union Pacific may re-urge its motion at the appropriate time after entry of a new scheduling order in accordance with same.

Therefore:

IT IS ORDERED that the Motion for Summary Judgment filed by Defendant Union Pacific Railroad Company [Doc. No. 106] is hereby **DENIED**.

DONE AND SIGNED in Shreveport, Louisiana, this 17th day of February, 2006.



S. MAURICE HICKS, JR.
UNITED STATES DISTRICT JUDGE